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1 The first sentence of Rule 4(a)(1) provides as follows: "Except as provided in paragraph (a)(4) of this Rule, in a civil case in which an appeal is permitted by law as of right from a district court to a court of appeals the notice of appeal required by Rule 3 must be filed with the clerk of the district court within 30 days after the date of entry of the judgment or order appealed from" Plaintiff states he should have 60 days to file his notice of appeal because the United States intervened in this matter. However, there is no indication in the record that the United States ever filed an appearance in this case.

of appeal upon motion filed within thirty days after the expiration of the time to file a notice of appeal. FED. R. APP. P. 4(a)(5).²

As plaintiff did not receive the court's order until after the period of time for filing a notice of appeal expired, the court is of the opinion he has shown both good cause and excusable neglect for not filing a timely notice of appeal. His motion will therefore be granted

ORDER

For the reasons set forth above, plaintiff's motion seeking an extension of time to file a notice of appeal is **GRANTED**. Plaintiff shall have 10 days from the date set forth below to file a notice of appeal.

SIGNED this 17 day of September, 2007.



KEITH F. GIBLIN
UNITED STATES MAGISTRATE JUDGE

² The first and fourth sentences of Rule 4(a)(5) provide as follows: "The district court, upon a showing of excusable neglect or good cause, may extend the time for filing a notice of appeal upon motion filed not later than 30 days after the expiration of the time prescribed by this Rule 4(a). ... No such extension shall exceed 30 days past such prescribed time or 10 days from the date of the entry of the order granting the motion, whichever occurs later."